H.707

Introduced by Representatives Scheuermann of Stowe, Baser of Bristol, Cupoli of Rutland City, Eastman of Orwell, Gamache of Swanton, Komline of Dorset, Olsen of Londonderry, O'Sullivan of Burlington, and Parent of St. Albans Town

Referred to Committee on

Date:

Subject: Taxation; income tax; capital gains

Statement of purpose of bill as introduced: This bill proposes to exclude a percentage of capital gains from Vermont's income tax if those gains are reinvested in a Vermont company.

An act relating to excluding reinvested capital gains from Vermont's income tax

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 32 V.S.A. § 5811(21)(B) is amended to read:

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h):

(I) if the taxpayer is aged 70 or older as of the last day of the tax year, or for adjusted net capital gain income from the sale of a farm or from the sale of standing timber, each as defined in subdivision (27) of this section, 40 percent of adjusted net capital gain income but the total amount of decrease under this subdivision (ii)(I) shall not exceed 40 percent of federal taxable income; provided, however, that a taxpayer aged 70 or older as of the last day of the tax year may elect to subtract his or her adjusted net capital gains pursuant to subdivision (21)(B)(ii)(II) of this section.

(II) for taxpayers aged 70 or older as of the last day of the tax year who so elect and for all other capital gain income, the first $2,500.00 of adjusted net capital gain income; ~~and~~

(III) as used in this subdivision (ii), prior to the calculations in subdivisions (I) and (II), "adjusted net capital gain income as defined in 26 U.S.C. § 1(h)" shall be reduced by an amount equal to 60 percent of any qualified reinvestment under section 5930v of this title; and

Sec. 2. 32 V.S.A. § 5930v is added to read:

§ 5930v. REINVESTMENT EXCLUSION

(a) A qualified taxpayer who makes an eligible venture capital investment may claim an exclusion of capital gains income under subdivision 5811(21)(C) of this chapter.

(b)(1) The maximum aggregate investment in any one qualifying business for which a single qualified investor may receive an exclusion under this section is limited to $500,000.00 in any three consecutive years.

(2) The maximum aggregate investment in any one qualified business for which all qualified investors may receive an exclusion under this section is limited to $5,000,000.00.

(c)(1) To claim an exclusion pursuant to this section a qualified taxpayer shall submit to the Vermont Economic Progress Council documentation and any additional information requested by the Council necessary to demonstrate compliance with the requirements of this section.

(2) The Council, upon review and confirmation of the qualified taxpayer's eligibility for an exclusion, shall issue a certificate to the taxpayer, who shall file the certificate with the Department of Taxes with his or her State income tax return for the applicable year.

(d) As used in this section:

(1) "At-risk debt" means debt which is not secured, is not guaranteed by a substantial owner of the business, will not be repaid for at least five years, or bears a reasonable rate of interest.

(2) "Eligible venture capital investment" means up to $500,000.00 of total investment by one person, which is equity or at-risk debt investment in

<u>one qualified business, for expenditure by the qualified business on the plant, equipment, research, and development, or as working capital in Vermont.</u>

<u>(3) "Qualified business" means a business that:</u>

<u>(A) has its principal place of business in this State;</u>

<u>(B) had in the year preceding the investment annual gross sales of $3,000,000.00 or less; and</u>

<u>(C)(i) is primarily engaged in manufacturing; or</u>

<u>(ii) is a knowledge-based business:</u>

<u>(I) whose value is based on intellectual property rights or similar intangible assets; and</u>

<u>(II) whose primary purpose is to apply knowledge to differentiate itself from other businesses through research, design, development, or novel adaptation of inventions, original works, industrial designs, computer software, information technology, or similar innovative intellectual products and services.</u>

<u>(4) "Qualified taxpayer" means a taxpayer who is not a substantial owner of the qualified business.</u>

<u>(5) "Substantial owner" means a person who, after the investment, has greater than 40 percent ownership interest in the qualified business, including attribution of ownership interests of the individual's spouse, parents, spouse's parents, siblings, and children, or is a person who is controlled by, or has</u>

actual control of, the qualified business through any combination of ownership and management.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2017 and apply to tax year 2017 and after.